

EXHIBIT 3

***REDACTED VERSION OF
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EXHIBIT 3

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4 Case No. 17-cv-00939-WHA

5 -----x
6 WAYMO LLC,
7 Plaintiff,
8 - against -
9 UBER TECHNOLOGIES, INC.; OTTOMOTTO, LLC;
10 OTTO TRUCKING LLC,
11 Defendants.
12 -----x

13
14 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
15

16 Videotaped 30(b)(6) Deposition
17 of GARY BROWN, taken by Defendants, held
18 at the offices of Morrison & Foerster LLP,
250 West 55th Street, at 9:59 a.m. on August
19 8, 2017, New York, New York, before Jineen
Pavesi, a Registered Professional Reporter,
20 Registered Merit Reporter, Certified Realtime
Reporter and Notary Public of the State of New York.

21
22
23
24 Job No. 2671217A
25 Pages 1 - 305

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1 A. Can you repeat the question. 10:48:25AM
2 Q. Was Waymo's investigation into 10:48:29AM
3 Mr. Levandowski part of any broader 10:48:30AM
4 investigation of other Chauffeur employees 10:48:33AM
5 that included Mr. Radu Raduta and 10:48:35AM
6 Mr. Sameer Kshirsagar? 10:48:40AM
7 MR. BAKER: Same instruction. 10:48:43AM
8 You can answer that yes or no. 10:48:44AM
9 A. Yes. 10:48:45AM
10 Q. You cannot testify today as to 10:48:47AM
11 any other Waymo employees being part of 10:48:51AM
12 the investigation, correct? 10:48:55AM
13 MR. BAKER: I am going to 10:48:58AM
14 instruct the witness not to answer on 10:48:58AM
15 grounds of attorney-client privilege and 10:49:00AM
16 work product. 10:49:01AM
17 Q. Are you following your 10:49:04AM
18 counsel's instruction? 10:49:05AM
19 A. I am. 10:49:06AM
20 Q. Who at Waymo has access to the 10:49:29AM
21 SVN log in the ordinary course of 10:49:31AM
22 business? 10:49:33AM
23 A. The administrator. 10:49:39AM
24 Q. And that administrator is 10:49:41AM
25 Mr. [REDACTED]? 10:49:43AM

1 A. That is correct. 10:49:45AM
2 Q. Are there any other 10:49:45AM
3 administrators? 10:49:46AM
4 A. Not that I know of. 10:49:51AM
5 Q. Has Mr. [REDACTED] been the 10:49:54AM
6 administrator of the SVN log since January 10:49:56AM
7 of 2015? 10:50:02AM
8 A. I don't believe so. 10:50:05AM
9 Q. Who has been the administrator 10:50:09AM
10 of the SVN log from January 2015 forward, 10:50:10AM
11 if not Mr. [REDACTED] 10:50:14AM
12 A. [REDACTED] was the previous 10:50:20AM
13 administrator. 10:50:22AM
14 Q. And when was [REDACTED] the 10:50:26AM
15 administrator for the SVN log? 10:50:30AM
16 A. I believe from the inception of 10:50:38AM
17 the server in early 2015 through the 10:50:39AM
18 summer, June or July, 2015 -- sorry, no, 10:50:46AM
19 June, July 2016. 10:50:55AM
20 Q. And after June or July of 2016, 10:51:00AM
21 [REDACTED] took on responsibilities 10:51:03AM
22 for administering the SVN log, is that 10:51:06AM
23 correct? 10:51:10AM
24 A. That is correct. 10:51:10AM
25 Q. You do not have access to the 10:51:22AM

1 SVN log in the ordinary course of 10:51:23AM
2 business, is that correct? 10:51:25AM
3 MR. BAKER: Objection to form. 10:51:29AM
4 A. That is correct. 10:51:31AM
5 Q. So as part of Waymo's 10:51:34AM
6 investigation, someone gave you a copy of 10:51:35AM
7 the SVN log, is that correct? 10:51:37AM
8 A. That is correct. 10:51:41AM
9 Q. And that person, the person who 10:51:44AM
10 gave you a copy of the SVN log was 10:51:46AM
11 Mr. [REDACTED] correct? 10:51:49AM
12 A. No. 10:51:53AM
13 Q. Who gave you a copy of the SVN 10:51:54AM
14 log? 10:51:56AM
15 MR. BAKER: I am going to 10:52:00AM
16 caution the witness not to reveal the 10:52:00AM
17 substance of any attorney-client 10:52:03AM
18 communication, but you can give a name. 10:52:04AM
19 A. [REDACTED]. 10:52:07AM
20 Q. When did Mr. [REDACTED] give you 10:52:08AM
21 the SVN log? 10:52:10AM
22 MR. BAKER: You can give a 10:52:11AM
23 date. 10:52:12AM
24 A. February 21st, 20th or 21st, 10:52:13AM
25 2017. 10:52:25AM

1 February 23rd, 2017. 10:54:02AM

2 Q. So your analysis of other log 10:54:11AM

3 sources that corroborated the download 10:54:13AM

4 activity took place in 2016, correct? 10:54:16AM

5 A. And 2017. 10:54:20AM

6 Q. The analysis you did with 10:54:23AM

7 respect to corroborating the download 10:54:25AM

8 activity in 2016 was performed without a 10:54:28AM

9 copy of the SVN log, is that correct? 10:54:34AM

10 A. That is correct. 10:54:37AM

11 Q. Did somebody tell you that 10:54:40AM

12 Mr. Levandowski had downloaded files from 10:54:43AM

13 the SVN server in 2016? 10:54:46AM

14 MR. BAKER: You can answer that 10:54:50AM

15 yes or no. 10:54:51AM

16 A. Yes. 10:54:52AM

17 Q. Who told you that? 10:54:53AM

18 MR. BAKER: You can give a 10:55:00AM

19 name. 10:55:00AM

20 A. [REDACTED]. 10:55:01AM

21 Q. Do you know how Mr. [REDACTED] knew 10:55:03AM

22 that Anthony Levandowski had downloaded 10:55:08AM

23 files? 10:55:10AM

24 MR. BAKER: You can answer that 10:55:14AM

25 yes or no. 10:55:14AM

1 Q. You also mentioned lock-down; 03:25:35PM
2 what is that? 03:25:37PM
3 A. Lock-down will prevent any 03:25:37PM
4 unknown or any unapproved binaries from 03:25:44PM
5 running on a system that is running in 03:25:49PM
6 lock-down mode. 03:25:52PM
7 Q. So if I have an executable that 03:25:54PM
8 [REDACTED] doesn't recognize, it says it can't 03:25:58PM
9 use it? 03:26:00PM
10 A. Yes. 03:26:00PM
11 Q. How do you get to be able to 03:26:01PM
12 use it? 03:26:04PM
13 A. [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED] [REDACTED] 03:26:38PM

1 paragraph in Mr. [REDACTED] e-mail, he 04:07:47PM
2 says that "On September 19, 2016, Waymo 04:07:53PM
3 pulled SVN log data, which dated back to 04:07:57PM
4 September 19, 2015, due to the 52-week 04:08:00PM
5 retention in place." 04:08:04PM
6 Do you see that? 04:08:06PM
7 A. I do see that. 04:08:10PM
8 Q. Are you aware of any 52-week 04:08:11PM
9 retention for the SVN log data? 04:08:13PM
10 A. I believe I said retention was 04:08:22PM
11 set to a year and then that was suspended 04:08:23PM
12 as of fall 2016, to my knowledge; I 04:08:27PM
13 believe I said that earlier in this 04:08:29PM
14 deposition, way earlier. 04:08:35PM
15 Q. So I asked you all of the log 04:08:37PM
16 data is available today and you said to my 04:08:39PM
17 knowledge, yes; was that a correct or 04:08:41PM
18 incorrect statement? 04:08:42PM
19 A. I thought it was correct. 04:08:48PM
20 Q. So do you believe it to be 04:08:49PM
21 correct or do you believe Mr. [REDACTED] 04:08:50PM
22 comment to be correct? 04:08:52PM
23 MR. BAKER: Objection to form. 04:08:53PM
24 A. Perhaps -- 04:09:01PM
25 THE WITNESS: I have a privilege 04:09:08PM

1 question on this thing. 04:09:09PM
2 MR. BAKER: Sure. 04:09:10PM
3 THE VIDEO TECHNICIAN: Time is 04:09:12PM
4 4:09 p.m. 04:09:13PM
5 We're off the record. 04:09:13PM
6 (Witness and counsel left the 04:09:15PM
7 hearing room to confer.) 04:09:16PM
8 (Pause.) 04:09:16PM
9 (Witness and counsel returned 04:09:16PM
10 to the hearing room.) 04:23:09PM
11 THE VIDEO TECHNICIAN: Time is 04:23:09PM
12 4:23 p.m. 04:23:27PM
13 We are on the record. 04:23:28PM
14 BY MR. CHATTERJEE: 04:23:29PM
15 Q. I think the question pending 04:23:33PM
16 was do you believe your prior testimony to 04:23:34PM
17 be correct or do you believe 04:23:38PM
18 Mr. [REDACTED] comment to be correct 04:23:39PM
19 with respect to that first sentence of the 04:23:40PM
20 third paragraph? 04:23:44PM
21 A. I think I'm definitely 04:23:45PM
22 deferring to what Mr. [REDACTED] said; 04:23:49PM
23 from my discussions with the Subversion 04:23:51PM
24 server administrators, I was under the 04:23:59PM
25 impression that -- when I gave that kind 04:24:01PM

1 of long sled of summer 2016, the logs were 04:24:05PM
2 pulled and coupled with the one-year 04:24:13PM
3 retention and my knowledge that the 04:24:14PM
4 Subversion server had been launched, to my 04:24:17PM
5 knowledge, I think in May or June or 04:24:19PM
6 summer of 2015, in my mind it was like, 04:24:22PM
7 oh, it goes back a year obviously to the 04:24:25PM
8 start. 04:24:28PM

9 But I definitely defer to Jeff 04:24:32PM
10 and I have never seen this document, but 04:24:34PM
11 seeing that, if he says that indefinite 04:24:37PM
12 retention was started in the early spring 04:24:43PM
13 of 2017 and not the fall of 2016, I have 04:24:47PM
14 to go with that as well, because these are 04:24:50PM
15 hard dates. 04:24:53PM

16 I was providing like three, 04:24:54PM
17 four month sleds. 04:24:56PM

18 Q. Have you done any investigation 04:24:58PM
19 into the accuracy of Mr. [REDACTED] 04:25:00PM
20 comments in this letter? 04:25:02PM

21 A. I have never seen this letter 04:25:08PM
22 until you put it in front of me. 04:25:09PM

23 Q. Who would know whether the 04:25:10PM
24 statements in Mr. [REDACTED] letter are 04:25:13PM
25 accurate or not, other than 04:25:15PM

1 Do you see that? 04:26:18PM
2 A. I do. 04:26:19PM
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 MR. BAKER: Objection to form. 04:27:05PM
18 A. Also, as a professional log 04:27:09PM
19 diver, I'll call myself, when we're doing 04:27:13PM
20 investigations, we don't keep things that 04:27:17PM
21 are not deemed explicitly relevant for 04:27:24PM
22 what we are trying to prove. 04:27:26PM
23 It is bad data stewardship, it 04:27:31PM
24 takes up space, and it makes noise. 04:27:34PM
25 Q. What were you asked to prove 04:27:36PM

1 here? 04:27:38PM

2 MR. BAKER: Objection, I am 04:27:39PM

3 going to caution you not to reveal the 04:27:43PM

4 substance of any attorney-client 04:27:44PM

5 communications. 04:27:46PM

6 If you can answer that question 04:27:46PM

7 without doing that, please do. 04:27:48PM

8 A. I did not pull the SVN log 04:27:52PM

9 data, I'm just speaking to the frame of 04:27:55PM

10 mind of why the entirety of all users' 04:27:56PM

11 logs may not be present. 04:28:04PM

12 For example, in what I've 04:28:05PM

13 produced to support my declaration, I'm 04:28:07PM

14 not pulling and presenting the [REDACTED] logs 04:28:10PM

15 of any of a hundred thousand other Google 04:28:13PM

16 employees because it is simply not 04:28:16PM

17 relevant to the investigation at hand. 04:28:18PM

18 Q. That wasn't my question. 04:28:20PM

19 What were you being asked to 04:28:25PM

20 prove as part of your forensic 04:28:26PM

21 investigation? 04:28:27PM

22 MR. BAKER: Same instruction 04:28:27PM

23 and also objection to the form. 04:28:28PM

24 A. These logs showed that 14,000 04:28:33PM

25 files and change were downloaded on 04:28:36PM

1 MR. BAKER: Objection to form, 05:14:49PM
2 counsel. 05:14:51PM
3 A. Do you have anything that says 05:14:54PM
4 that this didn't happen; the device was 05:14:55PM
5 attached, it was attached for a period of 05:14:58PM
6 eight hours. 05:15:00PM
7 I did search for this device 05:15:01PM
8 earlier in the logs and in my grep-ing I 05:15:02PM
9 couldn't find any indication of having 05:15:07PM
10 done so prior, that's anomalous. 05:15:09PM
11 Q. You want to make sure you knew 05:15:13PM
12 everything you possibly could about card 05:15:15PM
13 readers in Chauffeur before this kind of 05:15:17PM
14 an accusation was made, right? 05:15:19PM
15 MR. BAKER: Objection to form. 05:15:22PM
16 A. Nothing in my declaration is 05:15:23PM
17 not factual. 05:15:25PM
18 Q. Did you do any investigation as 05:15:27PM
19 to whether card readers were used by 05:15:29PM
20 Project Chauffeur? 05:15:31PM
21 MR. BAKER: Objection to form. 05:15:33PM
22 A. No. 05:15:34PM
23 Q. Did you ever check to see if 05:15:35PM
24 people in Chauffeur used digital cameras 05:15:39PM
25 or video cameras or Go Pros as part of 05:15:42PM

1 their ordinary business? 05:15:45PM

2 MR. BAKER: Same objection. 05:15:48PM

3 A. What I did check was to see if 05:15:54PM

4 this was anomalous for this user and it 05:15:56PM

5 was anomalous for this user. 05:15:58PM

6 What another engineer somewhere 05:15:59PM

7 else in Chauffeur does, if they have a Go 05:16:00PM

8 Pro that they want to bring to work, 05:16:02PM

9 that's their business. 05:16:04PM

10 But the subject of my 05:16:04PM

11 investigation was Anthony Levandowski, I 05:16:06PM

12 wanted to check if this was anomalous for 05:16:12PM

13 Mr. Levandowski and it turns out it was. 05:16:14PM

14 Q. Did you look for any [REDACTED] log 05:16:18PM

15 data about card readers being attached to 05:16:20PM

16 the desktop? 05:16:22PM

17 A. The desktop was not the subject 05:16:27PM

18 of our investigation at that point. 05:16:29PM

19 Q. Wouldn't it be relevant to know 05:16:30PM

20 if his behavior was anomalous to know if 05:16:32PM

21 he ever connected a card reader to the 05:16:35PM

22 desktop? 05:16:37PM

23 MR. BAKER: Objection to form. 05:16:39PM

24 A. Not necessarily. 05:16:46PM

25 Q. Wouldn't his behavior on all of 05:16:46PM

1 his laptops be relevant when you're trying 05:16:49PM
2 to make an assessment whether his behavior 05:16:52PM
3 was usual or unusual? 05:16:54PM

4 MR. BAKER: Objection to form. 05:16:56PM

5 A. We had assessed behavior and we 05:16:58PM
6 had a series of events in the month of 05:16:59PM
7 December that were very much anomalous and 05:17:01PM
8 this was just the cherry on top of more 05:17:03PM
9 anomalous activity that seemed to suggest 05:17:07PM
10 that ex-filtration was occurring. 05:17:12PM

11 Q. But you don't know that because 05:17:15PM
12 you didn't look at the desktop, did you? 05:17:16PM

13 MR. BAKER: Objection to form. 05:17:17PM

14 A. The desktop isn't where all the 05:17:18PM
15 activity was happening. 05:17:20PM

16 All this unusual activity was 05:17:21PM
17 happening on the Windows machine and I do 05:17:23PM
18 wish that we had been able to retain the 05:17:25PM
19 Windows laptop for a top-to-bottom 05:17:28PM
20 analysis, but unfortunately someone 05:17:30PM
21 reimaged it before they left. 05:17:34PM

22 Q. So you have the [REDACTED] log data 05:17:35PM
23 for that desktop, right? 05:17:38PM

24 A. Which desktop are we speaking 05:17:42PM
25 of? 05:17:43PM

C E R T I F I C A T I O N

I, Jineen Pavesi, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter and a Notary Public, do hereby certify that the foregoing witness, GARY BROWN, was duly sworn on the date indicated, and that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

A handwritten signature in black ink that reads "Jineen Pavesi, RPR, RMR". The signature is written in a cursive, flowing style.

JINEEN PAVESI, RPR, RMR, CRR